

DOCKET NO. HHD-CV-19-6116846-S	:	SUPERIOR COURT
	:	
MARK H. DEAN, AS TRUSTEE OF	:	JUDICIAL DISTRICT OF HARTFORD
THE CT RE 2019 TRUST	:	
	:	AT HARTFORD
V.	:	
	:	
FOTIS DULOS ET AL.	:	JANUARY 30, 2020

**DEFENDANTS' LIMITED OBJECTION TO PLAINTIFF'S
EMERGENCY MOTION FOR APPOINTMENT OF RECEIVER**

COME NOW the Defendants in the above-captioned action, **FORE GROUP, INC. and FOTIS DULOS**, by and through Undersigned Counsel, and Hereby Respectfully **OBJECT**, in limited part, to Plaintiff's *Emergency Motion for Appointment of Receiver*. Specifically, Defendants Respectfully **OBJECT** to the appointment of Robert M. Giuffria, Jr. as receiver, and Defendants Respectfully **REQUEST** the appointment of **STEFFEN REICH** of Pinnacle Real Estate Group, Coldwell Banker Residential Brokerage, 200 W. Main Street, Avon, CT 06001, as receiver.

I. LEGAL AUTHORITIES

Under Connecticut law, the appointment of a receiver is particularly subject to challenge, and robust litigation of the issue is clearly envisioned and intended by the legislature, given the broad provisions of *Conn. Gen. Stat. § 52-504*, stating that the court may modify or rescind an order appointing a receiver at any time:

[A]ny judge of the superior court... may make such order in the action as the exigencies of the case may require, and may, from time to time, rescind and modify any such order... .

Conn. Gen. Stat. § 52-504.



Connecticut jurisprudence concerning the prejudgment taking of property, including the appointment of receivers, recognizes that it is an extraordinary remedy. “[T]he power of taking property by attachment, before any just debt or claim has been established, is an extraordinary power.” *Feldmann v. Sebastian*, 261 Conn. 721, 725-726 (2002) (citations omitted).

A receivership is a drastic remedy. It takes control of the property from the defendant owner and vests it in an outsider who is likely not to manage it as effectively and economically as the owner. A receivership is likely to cause tenants to move, and to adversely affect the owner’s chances of refinancing the property.

Cross v. O’Neil, Docket No. CV-02-0189033, Superior Court, Judicial District of Stamford-Norwalk at Stamford, at *2 (December 6, 2002, Lewis, J.T.R.) (*citing New Connecticut Bank v. 20 Sisson Street Assn.*, 5 Conn. L. Rptr. 531, 532 (January 27, 1992, Satter, J.T.R.)).

Whenever possible, this Honorable Court must consider alternative prejudgment remedies that fall short of a receivership and still adequately meet the needs of the situation:

The availability and adequacy of another remedy is... a consideration to be carefully weighed in deciding whether a receiver is necessary. If it appears that some expedient action or remedy, less stringent in effect than a receivership, will meet the situation, that course should be taken.

Olechny v. Thadeus Kosciuszko Society of Thompsonville, Conn., Inc., 128 Conn. 534, 540 (1942).



The issue of appointing a receiver presents an equitable question that principally turns upon three factors:

Our courts have considered a number of equitable factors when deciding whether to appoint a receiver of rents, including:

- (1) whether waste or loss is occurring;**
- (2) the risk to the foreclosing party that he will recover less than the full amount of his debt, that is, whether the deficiency is certain or only threatened; and**
- (3) whether there are provisions in lending documents that allow or require the appointment of a receiver in the event of the mortgagor's default.**

Antonino v. Johnson, 113 Conn. App. 72, 77–78 (2009) (citations omitted). Under our law, the third factor, whether the loan documents contain provisions allowing or requiring the appointment of a receiver in the event of default, is the least important factor for this Honorable Court to consider, because it does not by itself lend support to the rationale for the appointment of a receiver, which is to secure a party's claim—not to grant ultimate relief.

The object of appointing receivers is to secure the property in dispute from waste or loss. It is not the office of a court of equity to appoint receivers as a mode of granting ultimate relief. They are appointed as a measure ancillary to the enforcement of some recognized equitable right.

Hartford Federal Sav. & Loan Asso. v. Tucker, 196 Conn. 172, 175 (1985).

As such, our Courts routinely deny motions for the appointment of a receiver where there is no demonstration that a foreclosing party's claim is at risk in the absence of a receiver. See, e.g., *Bankers Trust v. Clare*, 2000 Conn. Super. Ct. 10325, 10325 (August 17, 2000, Hickey, J.) (“[T]he court cannot ascertain whether a



deficiency exists because the plaintiff has not established sufficiently the fair market value of the property. Accordingly, the court denies the motion for appointment of a receiver of rents.”).

II. ARGUMENT

As noted previously in this pleading, Defendants do not object to the appointment of a receiver as requested by Plaintiff in the *Emergency Motion for Appointment of Receiver*; however, Defendants Respectfully **OBJECT** to the appointment of Robert M. Giuffria, Jr., the party selected and proffered by Plaintiff in its’ *Motion*, as receiver.

Rather, Defendants Respectfully **REQUEST** that this Honorable Court appoint **STEFFEN REICH** of Pinnacle Real Estate Group, Coldwell Banker Residential Brokerage, 200 W. Main Street, Avon, CT 06001, as receiver.

Mr. Reich is a licensed and experienced Real Estate Agent serving the Farmington Valley, whose award-winning real estate career includes receipt of the 2012, 2013, 2014, 2015, 2016 and 2017 *Five Star Real Estate Agent Award* based on overall client satisfaction ratings.¹

More importantly, Mr. Reich is intimately familiar with the subject-property, as he was involved in the construction of the home, and Mr. Reich is as well-versed in all of the systems and mechanicals of the home as anyone to be found. Simply put, Mr. Reich’s knowledge and familiarity with the property and the home is unsurpassed.



¹ *Profile, Steffen Reich*, available at http://pinnaclegroupct.com/default.asp.f-meetouragents_view_profile.agentid-34176

Finally, Mr. Reich is and has been the listing agent for various other properties constructed by Defendants, including other properties in the same neighborhood and on the same street. His knowledge and experience with the real estate market in the general area, and particularly with the specific neighborhood of the subject-property and the specific properties constructed by Defendants, enable Mr. Reich to most-efficiently and economically secure and maintain the property, while marketing the property and realizing the maximum value for this unique home, which is to the benefit of all involved parties.

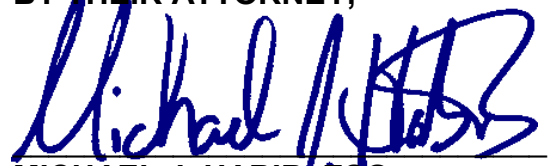
III. CONCLUSION

WHEREFORE for the foregoing reasons, Defendants **FORE GROUP, INC. and FOTIS DULOS** Respectfully **OBJECT** to Plaintiff's *Emergency Motion for Appointment of Receiver* to the extent that Plaintiff specifically requests the appointment of Robert M. Giuffria, Jr., as receiver.

Defendants Respectfully **REQUEST** that this Honorable Court appoint **STEFFEN REICH** of Pinnacle Real Estate Group, Coldwell Banker Residential Brokerage, 200 W. Main Street, Avon, CT 06001, as receiver, as Mr. Reich's unique knowledge and experience with the subject-property makes him most-qualified to serve as receiver.



RESPECTFULLY SUBMITTED,
THE DEFENDANTS, FOTIS DULOS
AND FORE GROUP, INC.,
BY THEIR ATTORNEY,



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CERTIFICATION

Pursuant to *Practice Book* §§10-12 – 10-17, *inclusive*, I hereby certify that a copy of the foregoing **DEFENDANTS' LIMITED OBJECTION TO PLAINTIFF'S EMERGENCY MOTION FOR APPOINTMENT OF RECEIVER** was electronically delivered via e-Mail, on **JANUARY 30, 2020**, to all counsel of record, as more specifically follows:

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Commissioner of the Superior Court

